

**Notice of Allowability**

Application No.

09/699,774

Examiner

Preeti Kumar

Applicant(s)

GLICK ET AL.

Art Unit

1751

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/03/2004.
2. ☒ The allowed claim(s) is/are 1-14, 16 and 17.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Claims 1-18 are pending. Claims 13-18 are newly added.
2. Claims 1 and 6 are independent.
3. Claims 1 and 5 are amended.
4. Objection to claims 1-5 is withdrawn in light of applicant's amendment to the claims and in light of the examiner's amendment below.

### **EXAMINER'S AMENDMENT**

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Harvey Cohen on Friday February 18, 2005 and Tuesday February 22, 2005. The application has been amended as follows: **The claims:**

In claim 1, delete "alcohol-free," and replace with – alcohol-free and—.

In claim 1, delete "and fragrance-free".

In claims 5, 14, and 16, delete "consist essentially of" and insert –are selected from the group consisting of extracts of--.

In claims 17, delete "consist essentially comprise" and replace with – are selected from the group consisting of extracts of —.

Claims 15 and 18 are cancelled.

***Reasons For Allowance***

6. The following is an examiner's statement of reasons for allowance: Claims 1-14 and 16-17 are allowed. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record teach or suggest an alcohol-free and surfactant-free antimicrobial composition comprising the claimed percentages of benzalkonium chloride, DMDH Hydantoin, and extracts of aloe vera, chamomile, and lavender the balance being steril water. A pertinent prior art is Beerse et al. (US 6,294,186). Beerse et al. teach an antimicrobial composition comprising the claimed percentages of benzalkonium chloride, DMDH Hydantoin, however, teach the utility of alcohol and surfactants as carrier systems in the emulsion. Another pertinent prior art is Slavtcheff et al. (5,614,201). Slavtcheff et al. do not teach an antimicrobial composition that is free of alcohol and surfactant. It would not have been obvious to one of ordinary skill in the art to formulate an alcohol-free and surfactant-free antimicrobial composition comprising the claimed percentages of benzalkonium chloride, DMDH Hydantoin, and extracts of aloe vera, chamomile, and lavender since the prior art teaches alcohols and surfactants. Patentable weight has been given to the recitation of alcohol free and surfactant free in the preamble of the instant claims as the recitation breaths life and meaning into the claim.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

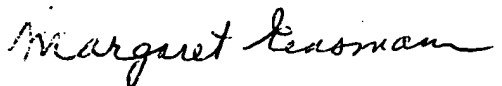
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner Preeti Kumar  
Art Unit 1751

PK

  
MARGARET EINSMANN  
PRIMARY EXAMINER  
GROUP 1100